IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

Crl.MC.No. 3034 of 2003()

ST.1278/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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PETITIONER: 3RD ACCUSED:

K.P.SURENDRAN, S/O. KANNAN,
SHEEN VEEN TRADES, BELLARD ROAD, KANNUR-1.

BY ADV. SRI.N.A.MURALEEDHARAN
SRI.M.T.SURESHKUMAR

RESPONDENTS: COMPLAINANT & STATE:

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1. THE FOOD INSPECTOR,
KANNUR CIRCLE, CHIRACKKAL GRAMA PANCHAYATH.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13/09/2007, ALONG WITH CRMC NO. 3019 OF 2003, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.M.C.Nos.3034 & 3019 of 2003

Dated this the 13th day of September, 2007

O R D E R

A3, the distributor, in S.T.No.1278/03 in the file of Judicial First Class Magistrate Court-II, Kannur is the petitioner in Crl.M.C.No.3034/03 and the first accused vendor in C.C.103/03 in the file of Judicial First Class Magistrate Court-I, Kannur is the petitioner in Crl.M.C.No.3019/03. The petitioner in Crl.M.C.No. 3019/03 has sought for getting quashed the proceedings initiated by the concerned Food Inspectors for the offences under the PFA Act on the allegation that Glucovita (Glucose D) product sought to be distributed and sold is adulterated and does not conform to the standards prescribed for Dextrose. The case is based on the report of the Food Analyst who was certified that the sample does not confirm to the standards prescribed for dextrose under the PFA Rules and hence adulterated. Counsel for the petitioners has relied on the decision reported in **Hindustan Lever Ltd. Vs. Food Inspector (2006(1) SCC Crl. 288**) wherein the Supreme Court has held with respect to a similar product i.e., milkana for which the standard for a

skimmed milk powder was attempted to be applied. It was found that the milkana is only an instant diary whitener which contained partially skimmed milk powder and other ingredients and that the same is a proprietary food as defined under Rule 37-A to B of the PFA Rules and that for the same no standard has been laid in the PFA Rules and hence applying standards for other articles cannot be sustained. Counsel has also relied on the decision of Madras High Court and Punjab and Haryana High Court directly on the point in **Corn Products Company vs. Food Inspector, Tirunelveli (1993(1)157)** and **International Best Foods Limited vs. State of Punjab (2003(1) FAC 112**). In the circumstances, I find that both the cases cannot be sustained. Hence, the entire proceedings pending as S.T.No.1278/03 in the court of Judicial First Class Magistrate Court-III, Kannur and C.C.No.103/03 in the court of Judicial First Class Magistrate Court -I, Kannur are herewith quashed.

The Crl.M.C.'s are allowed.

K.R.UDAYABHANU,
JUDGE

csl